# BILL 254

## SCHEDULE 2 - PROPOSED CHANGES TO ELECTIONS FINANCES ACT

## COMMENTS ON SECTION 15

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Submitted by:

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Will is a member of the Public Accountants Council for the Province of Ontario; the Chartered Professional Accountants of Canada, Federal Elections Task Force Advisory Committee; the C.D. Howe Institute; and is past Chair of the Public Accounting Licensing Board of the Institute Chartered Professional Accountants of Ontario.

# COMMENTS ON BILL 254 – PROPOSED CHANGES TO ELECTIONS FINANCES ACT

The following comments are limited to Section 15 of Schedule 2 of Bill 254. The Section deals with the requirement to appoint a licensed auditor, and the audit subsidy. Bill 254 proposes to remove the requirement for an annual audit by riding associations, and hence the related annual audit subsidy.

## Recommendations

1. That the requirement for an audit of annual financial statements of all registered riding associations be maintained, in order to promote compliance with the requirements of the Elections Finances Act;
2. That the eligibility to receive an audit subsidy in respect of annual financial statements be modified to include a threshold of activity below which no subsidy be paid, in order to rectify opportunities for misuse that currently exist;
3. That the coming into force date be the later of Royal Assent, and June 1, 2021 or later, because the annual reporting process in respect of the 2020 year is already well under way, in order to maintain equitable treatment of riding associations and to avoid disruption in the annual filing of financial statements due May 31 for approximately 500 riding associations for the 2020 year.

## Current practices

Riding associations face a common challenge in maintaining financial management standards consistent with the reporting requirements of the *Election Finances Act*. It is frequently difficult to find volunteers with the time and ability to take on the task, and the turnover rate may be high.

A reasonably high standard of compliance with these requirements is currently present because riding associations are required to have an independent audit of their annual financial statements and their election campaign period financial statements. As a result, the riding association gains access to persons who are required by virtue of their public licence to be knowledgeable of the appropriate reporting requirements. These requirements are driven by legislative requirements and vary from generally accepted accounting practices. Annual financial statements once filed are reviewed by knowledgeable staff at Elections Ontario which further bolsters the level of actual compliance with reporting requirements that is achieved.

The most difficult aspect of compliance with the *Act* arguably relates to the proper determination and reporting of contributions, which it should be noted give rise to a public expenditure because of their deductibility for income tax purposes. It is generally the case that the majority of financial management and audit effort relates to ensuring that contributions are properly reported.

The Chief Electoral Officer provides an audit subsidy, currently $847 for an annual financial statement, and this amount is frequently sufficient to cover much or all of the cost of obtaining audit services. The current annual cost of these subsidies is calculated as $420,112.[1]

The current subsidy regime is open to apparent misuse, in that a registered association with no financial activity may submit a “nil return”, that reports no revenues and no expenses, and receive the audit subsidy. There are a number of mechanisms available to prevent this, as discussed below.

The Act provides that annual financial statements are due to be filed by May 31 of the following year.

## Impact of proposals under Bill 254

As currently drafted, the proposal is to eliminate the requirement for an auditor, and consequently the payment of an audit subsidy, with the exception of election or leadership contests in which a registered candidate, registered leadership contestant, registered party or registered constituency association receives at least $10,000 in contributions or incurs expenses of at least $10,000, with respect to an election or leadership contest.

The likely immediate consequence will be a significant decline in the extent of actual compliance with legislative requirements, because riding associations would not be obligated to obtain the independent, qualified oversight provided by an audit and will wish to minimize costs. The anticipated decline in the quality of financial reporting would likely first be encountered in the management and reporting of contributions.

It may be further noted that the current audit requirement creates a strong incentive for financial officers to maintain records that are necessary for appropriate financial reporting as determined during the audit process, because the financial officer’s work is subject to independent review, and in order to reduce audit costs. The current proposals would reduce or remove this incentive.

Hence it is reasonable to anticipate that the current proposal would cause a deterioration in reporting practices, or an increase in public costs to maintain current standards (e.g. by expanding the role of Election Ontario), or both.

Schedule 2 of Bill 254 proposes that the amendments come into force upon Royal Assent. This proposed timing will cause significant disruption in the filing of 2020 financial statements. As of March 31, 2021 many ridings have already complied with existing requirements and hence would appear to be eligible to receive the current annual subsidy, and audits are currently in process for a significantly larger number of ridings that have not filed 2020 financial statements.

[1] Based on 2020 listing of 496 registered riding associations where the 2018 candidate received at least 2% of the vote such that an allowance was available, at $847 per riding association.

## Eligibilty for annual audit subsidy

If the intention of the proposed amendments is to reduce the public cost of the audit subsidy, there are other, targeted ways of doing so. Effective methods already exist in some form with respect to a candidate's campaign reimbursement at both the provincial and federal level. Under these methods, reporting entities with activities below a certain threshold do not receive subsidies from public funds.

For example, a provincial candidate must receive 5% of the vote in order to be eligible for the campaign expense subsidy; a federal candidate that receives at least 10% of valid votes is eligible for a subsidy equal to the lesser of 3% of campaign expenses and $1,500, with a minimum subsidy of $250.

A simpler approach to consider might be to provide an audit subsidy only to riding associations that qualify to receive quarterly allowances. Allowances are not available where a candidate in the previous election has received less than 2% of valid votes cast, so the existence of an allowance provides a measure or proxy of the level of riding association activity. This approach would also substantially reduce or eliminate current misuse of the subsidy regime.